

EXECUTIVE OFFICER'S SUMMARY REPORT
8:30 a.m., October 24, 2002
North Coast Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, California

ITEM: 11

SUBJECT: Public Hearing (continued from September 26, 2002) To Consider Adoption of an Updated Waste Discharge Requirements Waiver Policy (Resolution No. 2002-0080)

Discussion:

This matter was considered at a Regional Water Board public hearing on September 26, 2002 (the September 26 staff report is Appendix 1). The Regional Water Board heard oral testimony and considered all written oral testimony (Summarized below) and closed the public hearing. The Board formally approved Tables A and B of the September 26 staff report with the following amendments:

- The waiver categories for (1) Test Pumpings of Fresh Water Wells, (2) Discharge from Flushing of Domestic Water Lines and Tanks, and (3) Discharge from Hydrostatic Test Lines were deleted from Table A (Staff Recommendations for Elimination of Categorical Waivers Currently Authorized by North Coast Regional Water Board Resolution Nos. 87-113, 89-131, and 92-135) and added to Table B (Proposed Amendments to Categorical Waivers Currently Authorized by North Coast Regional Water Board Resolution Nos. 87-113, 89-131, and 92-135).
- The existing waiver conditions for each of the above three categories were modified by adding a condition prohibiting the presence of residual chlorine.
- The Table B conditions for the waiver category of Flow-through Seawater Systems and Aquacultural Operations were amended by including the discharge of parasites and larvae as anticipated problems.

Tables A and B as modified by the Regional Water Board are included herein.

Regional Water Board action to adopt an updated waste discharge requirements waiver policy was postponed until the October 24 Board meeting. The following issues require resolution.

Irrigation Return Waters Waiver Category:

- In oral testimony presented on September 26, 2002, Carre Brown, representing the Mendocino County Farm Bureau, and Steven Elliott, representing the Potter Valley Irrigation District recommended that the Regional Water Board renew the categorical waiver for Irrigation Return Waters. Staff had recommended that this waiver category be terminated before January 1, 2003. Staff stated that pending guidance from the State Water Board and Regional Water Board, regulation in the interim would be case-specific.

Regional Water Board staff recommends that the Irrigation Return Waters waiver category be terminated or be allowed to expire effective January 1, 2003, and that, following termination, the regulation of any such discharges be case-specific. The renewal of the Irrigation Return Waters waiver is complex and of statewide interest and is the focus of a special effort by the Central Valley Regional Water Board because of the abundance of irrigated agriculture in that region. The Central Valley Regional Water Board, which has staff with expertise in agricultural discharges, is focusing those resources on the development of a model Irrigation Return Waters waiver to assist other Regional Water Boards in addressing this discharge. When the model waiver is available, staff will develop a proposed Irrigation Return Waters waiver and present it to the Regional Water Board for consideration.

Pesticide Rinse Waters from Applicators

- In oral testimony presented on September 26, 2002, Carre Brown, representing the Mendocino County Farm Bureau recommended that the Regional Water Board renew the categorical waiver for Pesticide Rinse Waters from Applicators.

Regional Water Board staff continues to recommend that the Pesticide Rinse Waters from Applicators category be terminated and that regulation of such discharges be case-specific. The risk of adverse impacts resulting from such discharges is significant and should be evaluated on a case-specific basis.

Revision of Resolution No. 2002-0080

Regional Water Board staff made revisions to the version of Resolution No. 2002-0080 presented at the September 26, 2002, public hearing in response to technical amendments suggested by Board member Richard Grundy and legal counsel. Wording changes were made in Attachment B to correspond to the amendments made in the Resolution. The amended draft resolution is attached for consideration of adoption by the Regional Water Board.

Summary of Written Testimony and Staff Responses

- In her letter of September 26, 2002, Pamela Jeane, Deputy Chief Engineer representing the Sonoma County Water Agency (SCWA), expressed concern regarding Regional Water Board staff's recommendation to eliminate the categorical waivers for Test Pumpings of Fresh Water Wells and Discharges from Flushing of Domestic Water Lines and Tanks. SCWA conducts these and related activities as part of its essential maintenance program. SCWA has addressed the issue of potential adverse impacts resulting from the discharge of chlorinated water by de-chlorinating all water discharged during scheduled maintenance activities. SCWA states that additional language addressing the issue of de-chlorination could be incorporated into a revised categorical waiver. SCWA asks that categorical waivers addressing its maintenance activities be extended until any general permits covering the agency's maintenance activities are adopted.

In response to SCWA's testimony and similar testimony from other agencies, staff recommended modification of Tables A and B as shown under **Discussion** above. The Regional Water Board approved the modifications on September 26.

- In his letter of September 26, 2002, Robert C. Greenwood, Sonoma District Engineer, representing the State Department of Health Services (DHS), requested the Regional Water Board to (1) extend the categorical waiver for Test Pumpings of Fresh Water Wells, Discharge from Flushing of Domestic Water Lines and Tanks, and Discharge from Hydrostatic Test Lines, or (2) ensure that a general permit is adopted prior to the expiration of the categorical waivers. DHS cites the need to discharge water from public water systems expeditiously to purge systems of contaminants. Public water systems must also be flushed routinely to prevent the buildup of pollutants.

In response to DHS' testimony and similar testimony from other agencies, staff recommended modification of Tables A and B as shown under **Discussion** above. The Regional Water Board approved the modifications on September 26.

- In his letter of September 24, 2002, Jim Flugum, Senior Civil Engineer, representing the City of Healdsburg, expressed concern regarding Regional Water Board staff's proposal to eliminate waivers that apply to the maintenance, repair and operation of water systems. These include the existing waivers for Test Pumpings of Fresh Water Wells and Discharges from Flushing of Domestic Water Lines and Tanks. The City states that discharges from its water systems are made as part of essential and responsible water system maintenance and are necessary to protect public health. The City states that Regional Water Board staff's concern regarding the discharge of chlorinated water could be addressed by including additional language in a revised waiver. The City asks that the categorical waivers in question be extended until general permits are developed and adopted.

In response to the City of Healdsburg's testimony and similar testimony from other agencies, staff recommended modification of Tables A and B as shown under **Discussion** above. The Regional Water Board approved the modifications on September 26.

- In her memorandum of September 16, 2002, Vicki Frey, Environmental Scientist, representing the State Department of Fish and Game (DFG), recommended that the waiver conditions for the Flow-through Seawater Systems and Aquacultural Operations waiver category be modified to prohibit water quality problems resulting from the release of parasites and larvae.

Staff concurred and recommended that DFG's proposed modifications be incorporated into the conditions for the affected categorical waiver.

- In his letter of October 11, 2002, Michael R. Lozeau, representing Earth Justice Legal Defense Fund, expressed concern that the Regional Water Board was considering an extension of the categorical waiver of waste discharge requirements for discharges of irrigation return flows. Mr. Lozeau's major points were: (A.) The Board failed to review evidence of agricultural discharges and their significant adverse effects on water quality; (B.) A project proposing to waive Porter-Cologne reporting and permitting requirements for agriculture can only be approved with full CEQA compliance; and, (C.) A waiver for agricultural discharges would result in violations of water quality objectives.

As stated above, the Central Valley Regional Water Board, which has staff with expertise in agricultural discharges, is focusing those resources on the development of a model Irrigation Return Waters waiver to assist other Regional Water Boards in addressing this

discharge. Staff recommends that the Regional Water Board terminate or allow the irrigation return waters waiver category to expire effective January 1, 2003, and that regulation be case-specific pending development of a statewide model waiver.

Summary and Conclusions:

In compliance with the provisions of amended California Water Code Section 13269, Regional Water Board staff has reviewed all existing categorical waivers of waste discharge requirements and has concluded that it is appropriate to eliminate specific waiver categories, update and renew others, and establish new waiver categories for specific waste discharges. Amended Resolution No. 2002-0080 proposes a new Regional Water Board waiver policy. The resolution does not address the Timber Harvesting categorical waiver.

Preliminary Staff Recommendation: Staff recommends that the Regional Water Board Adopt Resolution No. 2002-0080, which would establish a new Regional Water Board Waste discharge Requirements Waiver Policy (excluding Timber Harvesting and Irrigation Return Waters).